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OFFICE OF PETITIONS

In re Application	:
Cora Alisuag	:
Application No. 10/025,316	: DECISION ON APPLICATION
Filed: December 18, 2001	: FOR PATENT TERM ADJUSTMENT
Atty Docket No. COR-001-US	:

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705", filed September 5, 2007. Applicant requests that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be increased from the currently accorded five hundred sixty-eight (568) days to eight hundred seventy-six (876) days.

For the reasons set forth below, a decision on the request for reconsideration of the patent term adjustment indicated on the patent is being **HELD IN ABEYANCE** until after the actual patent date.

Applicant is given two months from the issue date of the patent to request reconsideration of the patent term adjustment indicated on the patent application. Applicant may seek such reconsideration without payment of the fee. A copy of this decision should accompany applicant's written request for reconsideration.

On June 5, 2007, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is five hundred sixty-eight (568) days. On September 5, 2007, Applicant timely¹ submitted the instant application for patent term adjustment.

Applicant states that the patent issuing from the application is not subject to a terminal disclaimer.

The Office initially determined a patent term adjustment of five hundred sixty-eight (568) days based on an adjustment of seven hundred thirty (730) days of PTO delay pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), and fifty-seven (57) days of PTO delay pursuant to 35 U.S.C. 154(b)(1)(A)(ii) and 37 C.F.R. 1.703(a)(2), reduced by applicant's delays of ninety-two (92), three (3), thirty-three (33), and sixty-one (61) days pursuant to 37 C.F.R. § 1.704(b), and thirty (30) days pursuant to 37 C.F.R. 1.704(c)(8). All periods of adjustment have been reviewed and found to be correct.

However, applicants assert additional PTO delay for the failure on the part of the Office to issue the patent within three years of its filing. The Office will be able to assess whether or not any additional PTA is accorded once the issue date is established.²

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **five hundred sixty-eight (568)** (787 days of PTO delay, reduced by 219 days of applicant delay).

Receipt of the \$200 fee set forth in 37 C.F.R. § 1.18(e) is acknowledged.

The matter is being forwarded to the Office of Patent Publication for processing into a patent.

¹ Applicant filed the application for patent term adjustment together with the payment of the issue fee.

² Applicant should note that if an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period of pendency before the Office except for periods excluded under 35 U.S.C. (b)(1)(B)(i)-(iii), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A).

Telephone inquiries specific to this matter should be directed to
Cliff Congo, Petitions Attorney, at (571)272-3207.

A handwritten signature in black ink, appearing to read "Nancy Johnson". The signature is fluid and cursive, with a large loop at the end of the last name.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions